

Purpose:

Amdt. No. 186

To require a subpoena or other judicial order prior to the inspection of telephone toll records by an officer, employee, or agent of the United States, and for other purposes.

96TH CONGRESS
1ST SESSION

S. 622

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, APRIL 9), 1979

Referred to the Committee on Commerce, Science, and Transportation and
ordered to be printed

AMENDMENT

Intended to be proposed by Mr. TOWER to S. 622, a bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain services and to provide certain deregulation of such services, and for other purposes, viz: On page 37, after line 24, add the following:

1 **TITLE IV—TELEPHONE PRIVACY**

2 **SHORT TITLE**

3 SEC. 401. This title may be cited as the "Telephone
4 Record Privacy Act of 1979".

DEFINITIONS

SEC. 402. For the purposes of this title, the term—

(1) "customer" means any person or authorized representative of that person who is subscribing or has subscribed to the services of a communication common carrier;

(2) “communication common carrier” shall have the meaning given to “common carrier” in section 153(h) of title 47 of the United States Code;

(3) "toll records" means tickets, lists, or other detailed records of individual calls or messages, telegrams and similar messages, and messenger service charges, whether or not used as a basis for billing to customers.

CONFIDENTIALITY OF RECORDS—GOVERNMENT

AUTHORITIES

SEC. 403. Except as provided by section 404 (c) or (d), no Government authority may have access to or obtain copies of, or the information contained in the toll records of any customer from a communication common carrier unless the toll records are reasonably described and—

(1) such toll records are disclosed in response to an administrative subpoena or summons which meets the requirements of section 405;

1 (2) such toll records are disclosed in response to a
2 search warrant which meets the requirements of sec-
3 tion 406;

4 (3) such toll records are disclosed in response to a
5 judicial subpena which meets the requirements of sec-
6 tion 407; or

7 (4) such toll records are disclosed in response to a
8 formal written request which meets the requirements of
9 section 408.

10 CONFIDENTIALITY OF RECORDS—COMMUNICATION

11 COMMON CARRIER

12 SEC. 404. (a) No communication common carrier, or of-
13 ficer, employee, or agent of a communication common carri-
14 er, may provide to any Government authority access to or
15 copies of, or the information contained in, the toll records of
16 any customer except in accordance with the provisions of this
17 title.

18 (b) A communication common carrier shall not release
19 the toll records of a customer until the Government authority
20 seeking such records certifies in writing to the communica-
21 tion common carrier that it has complied with the applicable
22 provisions of this title.

23 (c) Nothing in this title shall preclude any communica-
24 tion common carrier, or any officer, employee, or agent of a
25 communication common carrier, from notifying a Govern-

1 ment authority that such carrier or officer, employee, or
2 agent has information which may be relevant to a possible
3 violation of any statute or regulation.

4 ADMINISTRATIVE SUBPENA AND SUMMONS

5 SEC. 405. A Government authority may obtain toll rec-
6 ords under section 403 pursuant to an administrative subpoena
7 or summons otherwise authorized by law only if—

8 (1) there is reason to believe that the records
9 sought are relevant to a legitimate law enforcement in-
10 quiry;

11 (2) a copy of the subpoena or summons has been
12 served upon the customer or mailed to the last known
13 address of the customer on or before the date on which
14 the subpoena or summons was served on the communi-
15 cation common carrier together with the following
16 notice which shall state with reasonable specificity the
17 nature of the law enforcement inquiry:

18 “Records or information concerning your toll rec-
19 ords held by the communication common carrier named
20 in the attached subpoena or summons are being sought
21 by this (agency or department) in accordance with the
22 Telephone Record Privacy Act of 1979 for the follow-
23 ing purpose: . If you desire that such
24 records or information not be made available, you
25 must:

1 “1. Fill out the accompanying motion paper
2 and sworn statement or write one of your own,
3 stating that you are the customer whose records
4 are being requested by the Government and either
5 giving the reasons you believe that the records
6 are not relevant to the legitimate law enforcement
7 inquiry stated in this notice or any other legal
8 basis for objecting to the release of the records.

9 “2. File the motion and statement by mailing
10 or delivering them to the clerk of any one of the
11 following United States district
12 courts:

13 “3. Serve the Government authority request-
14 ing the records by mailing or delivering a copy of
15 your motion and statement to:

16 “4. Be prepared to come to court and pre-
17 sent your position in further detail.

18 “5. You do not need to have a lawyer, al-
19 though you may wish to employ one to represent
20 you and protect your rights.

21 If you do not follow the above procedures, upon the
22 expiration of 10 days from the date of service or 14
23 days from the date of mailing of this notice, the rec-
24 ords or information requested therein will be made
25 available. These records may be transferred to other

1 Government authorities for legitimate law enforcement
2 inquiries, in which event you will be notified after the
3 transfer.”; and

4 (3) 10 days have expired from the date of service
5 of the notice or 14 days have expired from the date of
6 mailing the notice to the customer and within such
7 time period the customer has not filed a sworn state-
8 ment and motion to quash in an appropriate court, or
9 the customer challenge provisions of section 410 have
10 been complied with.

11 SEARCH WARRANTS

12 SEC. 406. (a) A Government authority may obtain toll
13 records under section 403(3) only if it obtains a search war-
14 rant pursuant to the Federal Rules of Criminal Procedure.

15 (b) Not later than 90 days after the Government author-
16 ity serves the search warrant, it shall mail to the last known
17 address of the customer a copy of the search warrant to-
18 gether with the following notice:

19 “Records or information concerning your toll records
20 held by the communication common carrier named in the at-
21 tached search warrant were obtained by this (agency or de-
22 partment) on (date) for the following purpose:
23 . You may have rights under the Telephone
24 Record Privacy Act of 1979.”.

1 (c) Upon application of the Government authority, a
2 court may grant a delay in the mailing of the notice required
3 in subsection (b), which delay shall not exceed 180 days fol-
4 lowing the service of the warrant, if the court makes the
5 findings required in section 409(a). If the court so finds, it
6 shall enter an ex parte order granting the requested delay
7 and an order prohibiting the communication common carrier
8 from disclosing that records have been obtained or that a
9 search warrant for such records has been executed. Addi-
10 tional delays of up to 90 days may be granted by the court
11 upon application, but only in accordance with this subsection.
12 Upon expiration of the period of delay of notification of the
13 customer, the following notice shall be mailed to the custom-
14 er along with a copy of the search warrant:

15 "Records or information concerning your toll records
16 held by the communication common carrier named in the at-
17 tached search warrant were obtained by this (agency or de-
18 partment) on (date). Notification was delayed beyond the
19 statutory 90-day delay period pursuant to a determination by
20 the court that such notice would seriously jeopardize an in-
21 vestigation concerning . You may have rights
22 under the Telephone Record Privacy Act of 1979."

23 JUDICIAL SUBPENA

24 SEC. 407. A Government authority may obtain toll rec-
25 ords under section 403 pursuant to judicial subpena only if—

1 (1) such subpoena is authorized by law and there is
2 reason to believe that the records sought are relevant
3 to a legitimate law enforcement inquiry;

4 (2) a copy of the subpoena has been served upon
5 the customer or mailed to the last known address of
6 the customer on or before the date on which the sub-
7 poena was served on the communication common carrier
8 together with the following notice which shall state
9 with reasonable specificity the nature of the law en-
10 forcement inquiry:

11 “Records or information concerning your toll rec-
12 ords which are held by the communication common
13 carrier named in the attached subpoena are being
14 sought by this (agency or department or authority) in
15 accordance with the Telephone Record Privacy Act of
16 1979 for the following purpose: . If you
17 desire that such records or information not be made
18 available, you must:

19 “1. Fill out the accompanying motion paper
20 and sworn statement or write one of your own,
21 stating that you are the customer whose records
22 are being requested by the Government and either
23 giving the reasons you believe that the records
24 are not relevant to the legitimate law enforcement

1 inquiry stated in this notice or any other legal
2 basis for objecting to the release of the records.

3 "2. File the motion and statement by mailing
4 or delivering them to the clerk of the
5 Court:

6 "3. Serve the Government authority request-
7 ing the records by mailing or delivering a copy of
8 your motion and statement to

9 "4. Be prepared to come to court and pre-
10 sent your position in further detail.

11 "5. You do not need to have a lawyer, al-
12 though you may wish to employ one to represent
13 you and protect your rights.

14 If you do not follow the above procedures, upon the
15 expiration of 10 days from the date of service or 14
16 days from the date of mailing of this notice, the rec-
17 ords or information requested therein will be made
18 available. These records may be transferred to other
19 Government authorities for legitimate law enforcement
20 inquiries, in which event you will be notified after the
21 transfer."; and

22 (3) 10 days have expired from the date of service
23 or 14 days from the date of mailing of the notice to the
24 customer and within such time period the customer has
25 not filed a sworn statement and motion to quash in an

10

1 appropriate court, or the customer challenge provisions
2 of section 410 have been complied with.

3 FORMAL WRITTEN REQUEST

4 SEC. 408. A Government authority may request toll
5 records under section 403 pursuant to a formal written re-
6 quest only if—

7 (1) no administrative summons or subpoena author-
8 ity reasonably appears to be available to that Govern-
9 ment authority to obtain toll records for the purpose
10 for which such records are sought;

11 (2) the request is authorized by regulations pro-
12 mulgated by the head of the agency or department;

13 (3) there is reason to believe that the records
14 sought are relevant to a legitimate law enforcement in-
15 quiry; and

16 (4)(A) a copy of the request has been served upon
17 the customer or mailed to the last known address of
18 the customer on or before the date on which the re-
19 quest was made to the communication common carrier
20 together with the following notice which shall state
21 with reasonable specificity the nature of the law en-
22 forcement inquiry:

23 "Records or information concerning your transac-
24 tions held by the communication common carrier
25 named in the attached request are being sought by this

1 (agency or department) in accordance with the Tele-
2 phone Record Privacy Act of 1979 for the following
3 purpose:

4 "If you desire that such records or information
5 not be made available, you must:

6 "1. Fill out the accompanying motion paper
7 and sworn statement or write one of your own,
8 stating that you are the customer whose records
9 are being requested by the Government and either
10 giving the reasons you believe that the records
11 are not relevant to the legitimate law enforcement
12 inquiry stated in this notice or any other legal
13 basis for objecting to the release of the records.

14 "2. File the motion and statement by mailing
15 or delivering them to the clerk of any one of the
16 following United States district courts:

17
18 "3. Serve the Government authority request-
19 ing the records by mailing or delivering a copy of
20 your motion and statement to

21 "4. Be prepared to come to court and pres-
22 ent your position in further detail.

23 "5. You do not need to have a lawyer, al-
24 though you may wish to employ one to represent
25 you and protect your rights.

1 If you do not follow the above procedures, upon the
2 expiration of 10 days from the date of service or 14
3 days from the date of mailing of this notice, the rec-
4 ords or information requested therein may be made
5 available. These records may be transferred to other
6 Government authorities for legitimate law enforcement
7 inquiries, in which event you will be notified after the
8 transfer.”; and

9 (B) 10 days have expired from the date of service
10 or 14 days from the date of mailing of the notice by
11 the customer and within such time period the customer
12 has not filed a sworn statement and an application to
13 enjoin the Government authority in an appropriate
14 court, or the customer challenge provisions of section
15 410 have been complied with.

16 DELAYED NOTICE—PRESERVATION OF RECORDS

17 SEC. 409. (a) Upon application of the Government au-
18 thority, the customer notice required under section 405(2),
19 406(c), 407(2), 408(4), or 412(b) may be delayed by order of
20 an appropriate court if the presiding judge or magistrate finds
21 that—

22 (1) the investigation being conducted is within the
23 lawful jurisdiction of the Government authority seeking
24 the toll records;

1 (2) there is reason to believe that the records
2 being sought are relevant to a legitimate law enforce-
3 ment inquiry; and

4 (3) there is reason to believe that such notice will
5 result in—

6 (A) endangering life or physical safety of any
7 person;

8 (B) flight from prosecution;

9 (C) destruction of or tampering with evi-
10 dence;

11 (D) intimidation of potential witnesses; or

12 (E) otherwise seriously jeopardizing an inves-
13 tigation or official proceeding or unduly delaying a
14 trial or ongoing official proceeding to the same
15 extent as the circumstances in the preceding sub-
16 paragraphs.

17 An application for delay must be made with reasonable
18 specificity.

19 (b)(1) If the court makes the findings required in para-
20 graphs (1), (2), and (3) of subsection (a), it shall enter an ex
21 parte order granting the requested delay for a period not to
22 exceed 90 days and an order prohibiting the communication
23 common carrier from disclosing that records have been ob-
24 tained or that a request for records has been made, except
25 that, if the court finds that there is reason to believe that

1 such notice may endanger the lives or physical safety of a
2 customer or group of customers, or any person or group of
3 persons associated with a customer, the court may specify
4 that the delay be indefinite.

5 (2) Extensions of the delay of notice provided in para-
6 graph (1) of up to 90 days each may be granted by the court
7 upon application, but only in accordance with this subsection.

8 (3) Upon expiration of the period of delay of notification
9 under paragraph (1) or (2), the customer shall be served with
10 or mailed a copy of the process or request together with the
11 following notice which shall state with reasonable specificity
12 the nature of the law enforcement inquiry:

13 "Records or information concerning your toll records
14 which are held by the communication common carrier named
15 in the attached process or request were supplied to or re-
16 quested by the Government authority named in the process
17 or request on (date). Notification was withheld pursuant to a
18 determination by the (title of court so ordering) under the
19 Telephone Record Privacy Act of 1979 that such notice
20 might (state reason). The purpose of the investigation or offi-
21 cial proceeding was .".

22 (c) When access to toll records is obtained pursuant to
23 section 414(b) (emergency access), the Government authority
24 shall, unless a court has authorized delay of notice pursuant
25 to subsections (a) and (b), as soon as practicable after such

1 records are obtained serve upon the customer, or mail by
2 registered or certified mail to the last known address of the
3 customer, a copy of the request to the communication
4 common carrier together with the following notice which
5 shall state with reasonable specificity the nature of the law
6 enforcement inquiry:

7 “Records concerning your toll records held by the com-
8 munication common carrier named in the attached request
9 were obtained by (agency or department) under the Tele-
10 phone Record Privacy Act of 1979 on (date) for the following
11 purpose: . Emergency access to such records
12 was obtained on the grounds that (state grounds).”.

13 (d) Any memorandum, affidavit, or other paper filed in
14 connection with a request for delay in notification shall be
15 preserved by the court. Upon petition by the customer to
16 whom such records pertain, the court may order disclosure of
17 such papers to the petitioner unless the court makes the find-
18 ings required in subsection (a).

19 CUSTOMER CHALLENGE PROVISIONS

20 SEC. 410. (a) Within 10 days of service or within 14
21 days of mailing of a subpoena, summons, or formal written
22 request, a customer may file a motion to quash an adminis-
23 trative summons or judicial subpoena, or an application to
24 enjoin a Government authority from obtaining toll records
25 pursuant to a formal written request, with copies served upon

1 the Government authority. A motion to quash a judicial sub-
2 pena shall be filed in the court which issued the subpoena. A
3 motion to quash an administrative summons or an application
4 to enjoin a Government authority from obtaining records pur-
5 suant to a formal written request shall be filed in the appro-
6 priate United States district court. Such motion or applica-
7 tion shall contain an affidavit or sworn statement—

8 (1) stating that the applicant is a customer of the
9 communication common carrier from which toll records
10 pertaining to the customer have been sought; and

11 (2) stating the applicant's reasons for believing
12 that the toll records sought are not relevant to the le-
13 gitimate law enforcement inquiry stated by the Gov-
14 ernment authority in its notice, or that there has not
15 been substantial compliance with the provisions of this
16 title.

17 Service shall be made under this section upon a Government
18 authority by delivering or mailing by registered or certified
19 mail a copy of the papers to the person, office, or department
20 specified in the notice which the customer has received pur-
21 suant to this title. For the purposes of this section, "deliv-
22 ery" has the meaning stated in rule 5(b) of the Federal Rules
23 of Civil Procedure.

24 (b) If the court finds that the customer has complied
25 with subsection (a), it shall order the Government authority

1 to file a sworn response, which may be filed in camera if the
2 Government includes in its response the reasons which make
3 in camera review appropriate. If the court is unable to deter-
4 mine the motion or application on the basis of the parties'
5 initial allegations and response, the court may conduct such
6 additional proceedings as it deems appropriate. All such pro-
7 ceedings shall be completed and the motion or application
8 decided within 7 calendar days of the filing of the Govern-
9 ment's response.

10 (c) If the court finds that the applicant is not the cus-
11 tomer to whom the toll records sought by the Government
12 authority pertain, or that there is a demonstrable reason to
13 believe that the law enforcement inquiry is legitimate and a
14 reasonable belief that the records sought are relevant to that
15 inquiry, it shall deny the motion or application, and, in the
16 case of an administrative summons or court order other than
17 a search warrant, order such process enforced. If the court
18 finds that the applicant is the customer to whom the records
19 sought by the Government authority pertain, and that there
20 is not a demonstrable reason to believe that the law enforce-
21 ment inquiry is legitimate and a reasonable belief that the
22 records sought are relevant to that inquiry, or that there has
23 not been substantial compliance with the provisions of this
24 title, it shall order the process quashed or shall enjoin the
25 Government authority's formal written request.

1 (d) A court ruling denying a motion or application under
2 this section shall not be deemed a final order and no interloc-
3 utory appeal may be taken therefrom by the customer. An
4 appeal of a ruling denying a motion or application under this
5 section may be taken by the customer (1) within such period
6 of time as provided by law as part of any appeal from a final
7 order in any legal proceeding initiated against the customer
8 arising out of or based upon the toll records, or (2) within 30
9 days after a notification that no legal proceeding is contem-
10 plated against the customer. The Government authority ob-
11 taining the toll records shall promptly notify a customer
12 when a determination has been made that no legal proceed-
13 ing against the customer is contemplated. After 180 days
14 from the denial of the motion or application, if the Govern-
15 ment authority obtaining the records has not initiated such a
16 proceeding, a supervisory official of the Government authori-
17 ty shall certify to the appropriate court that no such determi-
18 nation has been made. The court may require that such certi-
19 fications be made, at reasonable intervals thereafter, until
20 either notification to the customer has occurred or a legal
21 proceeding is initiated as described in clause (A).

22 (e) The challenge procedures of this title constitute the
23 sole judicial remedy available to a customer to oppose disclo-
24 sure of toll records pursuant to this title.

1 (f) Nothing in this title shall enlarge or restrict any
2 rights of a communication common carrier to challenge re-
3 quests for records made by a Government authority under
4 existing law. Nothing in this title shall entitle a customer to
5 assert the rights of a communication common carrier.

6 DUTY OF COMMUNICATION COMMON CARRIER

7 SEC. 411. Upon receipt of a request for toll records
8 made by a Government authority under section 405 or 407,
9 the communication common carrier shall, unless otherwise
10 provided by law, proceed to assemble the records requested
11 and must be prepared to deliver the records to the Govern-
12 ment authority upon receipt of the certificate required under
13 section 404(b).

14 USE OF INFORMATION

15 SEC. 412. (a) Toll records originally obtained pursuant
16 to this title shall not be transferred to another agency or
17 department unless the transferring agency or department cer-
18 tifies in writing that there is reason to believe that the rec-
19 ords are relevant to a legitimate law enforcement inquiry
20 within the jurisdiction of the receiving agency or department.

21 (b) When toll records subject to this title are transferred
22 pursuant to subsection (a), the transferring agency or depart-
23 ment shall, within 14 days, send to the customer a copy of
24 the certification made pursuant to subsection (a) and the fol-
25 lowing notice, which shall state the nature of the law en-

1 agency from a duly authorized committee or subcommittee of
2 the Congress.

3 EXCEPTIONS

4 SEC. 413. (a) Nothing in this title shall be construed to
5 prohibit the disclosure of any toll records or information
6 which is not identified with or identifiable as being derived
7 from the toll records of a particular customer.

8 (b) Nothing in this title shall be construed to prohibit
9 examination by or disclosure to any supervisory agency of
10 toll records or information in the exercise of its supervisory,
11 regulatory, or monetary functions with respect to a communi-
12 cation common carrier.

13 (c) Nothing in this title shall be construed to prohibit the
14 disclosure of toll records in accordance with procedures au-
15 thorized by the Internal Revenue Code.

16 (d) Nothing in this title shall be construed to authorize
17 the withholding of toll records or information required to be
18 reported in accordance with any Federal statute or rule pro-
19 mulgated thereunder.

20 (e) Nothing in this title shall be construed to apply to
21 toll records sought by a Government authority under the
22 Federal Rules of Civil or Criminal Procedure or comparable
23 rules of other courts in connection with litigation to which
24 the Government authority and the customer are parties.

1 (f) Nothing in this title shall be construed to apply to toll
2 records sought by a Government authority pursuant to an
3 administrative subpoena issued by an administrative law judge
4 in an adjudicatory proceeding subject to section 554 of title
5 5, United States Code, and to which the Government author-
6 ity and the customer are parties.

7 (g) Nothing in this title (except sections 404, 417, and
8 418) shall be construed to apply to toll records sought by a
9 Government authority in connection with a lawful proceed-
10 ing, investigation, examination, or inspection directed at the
11 communication common carrier in possession of such records
12 or at a legal entity which is not a customer.

13 (h) Nothing in this title (except sections 415 and 420)
14 shall be construed to apply to any subpoena or court order
15 issued in connection with proceedings before a grand jury.

16 (i) Nothing in this title shall be construed to apply to toll
17 records sought by the General Accounting Office pursuant to
18 an authorized proceeding, investigation, examination, or
19 audit directed at a Government authority.

20 SPECIAL PROCEDURES

21 SEC. 414. (a)(1) Nothing in this title (except sections
22 415, 416, 417, 418, and 421) shall be construed to apply to
23 the production and disclosure of toll records pursuant to re-
24 quests from—

1 (A) a Government authority authorized to conduct
2 foreign counter- or foreign positive-intelligence activi-
3 ties for purposes of conducting such activities; or

4 (B) the Secret Service for the purpose of conduct-
5 ing its protective functions (18 U.S.C. 3056; 3 U.S.C.
6 202, Public Law 90-331, as amended).

7 (2) In the instances specified in paragraph (1), the Gov-
8 ernment authority shall submit to the communication
9 common carrier the certificate required in section 404(b)
10 signed by a supervisory official of a rank designated by the
11 head of the Government authority.

12 (3) No communication common carrier, or officer, em-
13 ployee, or agent of such communication common carrier,
14 shall disclose to any person that a Government authority de-
15 scribed in paragraph (1) has sought or obtained access to a
16 customer's toll records.

17 (4) The Government authority specified in paragraph (1)
18 shall compile an annual tabulation of the occasions in which
19 this section was used.

20 (b)(1) Nothing in this title shall be construed to prohibit
21 a Government authority from obtaining toll records from a
22 communication common carrier if the Government authority
23 determines that delay in obtaining access to such records
24 would create imminent danger of—

25 (A) physical injury to any person;

24

1 (B) serious property damage; or

2 (C) flight to avoid prosecution.

3 (2) In the instances specified in paragraph (1), the Gov-
4 ernment shall submit to the communication common carrier
5 of the certificate required in section 404(b) signed by a super-
6 visory official of a rank designated by the head of the Gov-
7 ernment authority.

8 (3) Within 5 days of obtaining access to toll records
9 under this subsection, the Government authority shall file
10 with the appropriate court a signed, sworn statement of a
11 supervisory official of a rank designated by the head of the
12 Government authority setting forth the grounds for the emer-
13 gency access. The Government authority shall thereafter
14 comply with the notice provisions of section 409(c).

15 (4) The Government authority specified in paragraph (1)
16 shall compile an annual tabulation of the occasions in which
17 this section was used.

18 COST REIMBURSEMENT

19 SEC. 415. Except for records obtained pursuant to sec-
20 tion 404(d) or 413 (a) through (i), or as otherwise provided by
21 law, a Government authority shall pay to the communication
22 common carrier assembling or providing toll records pertain-
23 ing to a customer and in accordance with procedures estab-
24 lished by this title a fee for reimbursement for such costs as
25 are reasonably necessary and which have been directly in-

1 curred in searching for, reproducing, or transporting books,
2 papers, records, or other data required or requested to be
3 produced. The Federal Communications Commission shall,
4 by regulation, establish the rates and conditions under which
5 such payment may be made.

6 JURISDICTION

7 SEC. 416. An action to enforce any provision of this
8 title may be brought in any appropriate United States district
9 court without regard to the amount in controversy within 3
10 years from the date on which the violation occurs or the date
11 of discovery of such violation, whichever is later.

12 CIVIL PENALTIES

13 SEC. 417. (a) Any agency or department of the United
14 States or communication common carrier obtaining or dis-
15 closing toll records or information contained therein in viola-
16 tion of this title is liable to the customer to whom such rec-
17 ords relate in an amount equal to the sum of—

18 (1) \$100 without regard to the volume of records
19 involved;

20 (2) any actual damages sustained by the customer
21 as a result of the disclosure;

22 (3) such punitive damages as the court may allow,
23 where the violation is found to have been willful or in-
24 tentional; and

1 (4) in the case of any successful action to enforce
2 liability under this section, the costs of the action to-
3 gether with reasonable attorney's fees as determined
4 by the court.

5 (b) Whenever the court determines that any agency or
6 department of the United States has violated any provision of
7 this title and the court finds that the circumstances surround-
8 ing the violation raise questions of whether an officer or em-
9 ployee of the department or agency acted willfully or inten-
10 tionally with respect to the violation, the Civil Service Com-
11 mission shall promptly initiate a proceeding to determine
12 whether disciplinary action is warranted against the agent or
13 employee who was primarily responsible for the violation.
14 The Commission after investigation and consideration of the
15 evidence submitted, shall submit its findings and recommen-
16 dations to the administrative authority of the agency con-
17 cerned and shall send copies of the findings and recommenda-
18 tions to the officer or employee or the representative of the
19 employee. The administrative authority shall take the correc-
20 tive action that the Commission recommends.

21 (c) Any communication common carrier or agent or em-
22 ployee thereof making a disclosure of toll records pursuant to
23 this title in good-faith reliance upon a certificate by any Gov-
24 ernment authority shall not be liable to the customer for such
25 disclosure.

1 (d) The remedies and sanctions described in this title
2 shall be the only authorized judicial remedies and sanctions
3 for violations of this title.

4 INJUNCTIVE RELIEF

5 SEC. 418. In addition to any other remedy contained in
6 this title, injunctive relief shall be available to require that
7 the procedures of this title are complied with. In the event of
8 any successful action, costs together with reasonable attor-
9 ney's fees as determined by the court may be recovered.

10 SUSPENSION OF STATUTES OF LIMITATIONS

11 SEC. 419. If any individual files a motion or application
12 under this title which has the effect of delaying the access of
13 a Government authority to toll records pertaining to such
14 individual, any applicable statute of limitations shall be
15 deemed to be tolled for the period extending from the date
16 such motion or application was filed until the date upon
17 which the motion or application is decided.

18 GRAND JURY INFORMATION

19 SEC. 420. Toll records about a customer obtained from
20 a communication common carrier pursuant to a subpoena
21 issued under the authority of a Federal grand jury—

22 (1) shall be returned and actually presented to the
23 grand jury;

24 (2) shall be used only for the purpose of consider-
25 ing whether to issue an indictment or presentment by

1 that grand jury, or of prosecuting a crime for which
2 that indictment or presentment is issued, or for a pur-
3 pose authorized by rule 6(e) of the Federal Rules of
4 Criminal Procedure;

5 (3) shall be destroyed or returned to the communi-
6 cation common carrier if not used for one of the pur-
7 poses specified in paragraph (2); and

8 (4) shall not be maintained, or a description of the
9 contents of such records shall not be maintained by
10 any Government authority other than in the sealed
11 records of the grand jury, unless such record has been
12 used in the prosecution of a crime for which the grand
13 jury issued an indictment or presentment or for a pur-
14 pose authorized by rule 6(e) of the Federal Rules of
15 Criminal Procedure.

16 REPORTING REQUIREMENTS

17 SEC. 421. (a) In April of each year, the Director of the
18 Administrative Office of the United States Courts shall send
19 to the appropriate committees of Congress a report concern-
20 ing the number of applications for delays of notice made pur-
21 suant to section 409 and the number of customer challenges
22 made pursuant to section 410 during the preceding calendar
23 year. Such report shall include: The identity of the Govern-
24 ment authority requesting a delay of notice; the number of
25 notice delays sought and the number granted under each sub-

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1 paragraph of section 409(a)(3); the number of notice delay
2 extensions sought and the number granted; and the number
3 of customer challenges made and the number that are
4 successful.

5 (b) In April of each year, each Government authority
6 that requests access to toll records of any customer from a
7 communication common carrier pursuant to this title shall
8 send to the appropriate committees of Congress a report de-
9 scribing requests made during the preceding calendar year.
10 Such report shall include the number of requests for records
11 made pursuant to each section of this title listed in the pre-
12 ceding sentence and any other related information deemed
13 relevant or useful by the Government authority.

14 (c) The Securities and Exchange Commission shall not
15 be subject to the provisions of this title for a period of 2 years
16 from the date of enactment of this title.

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